

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

WHITES LANDING FISHERIES, INC.

Plaintiff, Counter-Defendant

vs.

Case No. 3:20-cv-2740
Hon. Jack Zouhary

EDDIE C. TOWLES

Defendant, Counter-Plaintiff

PARTIES' JOINT MOTION TO ADJOURN TRIAL

Plaintiff, Counter-Defendant Whites Landing Fisheries, Inc. and Defendant, Counter-Plaintiff Eddies Towles, by and through their respective undersigned counsel, jointly move for a brief adjournment of the bench trial currently scheduled for August 17, 2021 and in support thereof state:

1. This matter involves a June 21, 2020 boat v. commercial fishing net incident on Lake Erie approximately 1 mile north of Point Retreat Condos.

2. On that date, Defendant Eddie Towles was operating his 2018 34' Four Winds pleasure craft in the company of his wife Tricia and their children as well as Christopher and Jill Sword and their children.

3. At that time, according to the Ohio Department of Natural Resources Watercraft Incident Casualty Report produced by the ODNR in response to an

earlier FOIA request, Mr. Towles was heading east when a storm came up and the boat's port engine propeller became entangled in a commercial fishing net owned and operated by Plaintiff White's Landing Fisheries.

4. Plaintiff claims defendant Mr. Towles negligently operated his boat and thus seeks recovery of damages for claimed fishing net repairs as well as punitive damages. Defendant denies he was negligent and refutes the claims for damages sought.

5. The Court may recall that during the recently held Conference with counsel for the parties, that the issue was raised as to whether the complete ODNR Watercraft investigation file had been produced to the parties. In fact it is apparent that only a redacted version of some content has been produced and that elements of the investigating officer's fact-finding efforts including witness interviews, documents, and findings have not been provided.

6. Counsel for the parties have conferred regarding the relief requested in this Motion, and all believe that a short adjournment of the current trial date will serve the interests of justice for both sides and for the benefit of the Court.

7. Specifically, the parties make this request in order that a discovery deposition duces tecum may be scheduled of the investigating ODNR officers in order to bring forth the full investigative file (which has yet to be produced to any

party despite requests) and testimony of the investigating officers. This needed discovery will illuminate the parties and their counsel as to yet undisclosed views and findings of the investigating officers and thus will aid the parties in identifying case issues and to more fully evaluate the nature of their claims and defenses in the case before trial.

8. Counsel for the parties have been advised by the ODNR that such depositions may only be accomplished through and with the mandatory participation of the Ohio Attorney General Counsel to be assigned to the matter at a mutually agreed date, place and time which will require the trial adjournment to accomplish.

9. The requested adjournment of trial is the first such adjournment sought and is made in good faith without any purpose to unreasonably delay the matter.

WHEREFORE, for the reasons expressed, the parties jointly pray for the following relief:

- A) That this Honorable Court adjourn the current August 17, 2021 trial for a period of 30-45 days so that the described discovery through the Ohio Attorney General's office counsel, to be assigned, may be accomplished;

B) That the current pre-trial scheduling dates for filing witness lists and exhibit lists and production on August 11, 2021 and trial briefs on August 13, 2021 likewise be adjourned to appropriate dates ahead of the new trial date that may be ordered.

Respectfully submitted,

Dated: August 6, 2021

By: /s/ Kelly E. Mulrane

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